

Doc Code: PET.OP

Document Description: Petition for Review by the Office of Petitions

MAY 07 2009

PTO/SB/64 (04-09)

Approved for use through 05/31/2009. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
P32875-1First named inventor: Buxton, et al.Application No.: 10/055,817Art Unit: 1615Filed: January 23, 2002Examiner: G. KishoreTitle: NOVEL COMPOUNDS

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional

**1. Petition Fee**

- ☐ Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Application claims small entity status. See 37 CFR 1.27.
- ☒ Other than small entity-fee \$ 1,620.00 (37 CFR 1.17(m))

**2. Reply and/or fee**

- A. The reply and/or fee to the above-noted Office action in the form of continuation app. under No. 11/203,573 (identify type of reply):

- ☒ has been filed previously on August 9, 2005
- ☐ is enclosed herewith.

- B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_

- ☐ has been paid previously on \_\_\_\_\_
- ☐ is enclosed herewith.

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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05/07/2009

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1620.00 DA

PTO/SB/64 (04-09)

Approved for use through 05/31/2009. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Wayne J. Dustman  
Signature  
Wayne J. Dustman  
Type or Printed name  
709 Swedeland Road  
Address  
King of Prussia, PA 19406  
Address

May 7, 2009  
Date  
33,870  
Registration Number, If applicable  
610 270-5023  
Telephone Number

- Enclosures:
- ☒ Fee Payment
  - ☐ Reply
  - ☐ Terminal Disclaimer Form
  - ☒ Additional sheets containing statements establishing unintentional delay
  - ☒ Other: One (1) Notice of Appeal; One (1) Transmittal Letter; One (1) Filing Receipt

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- ☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

07 May 2009

Date

Linda M. Piekarski  
Signature

Linda M. Piekarski

Typed or printed name of person signing certificate

[Page 2 of 2]

Application No. 10/055,817

Filed: January 23, 2002

I hereby state:

(i). I recently became the attorney responsible for United States Patent Application No. 10/055,817, filed January 23, 2002 (currently abandoned), and for United States Patent Application No. 11/203,573 filed August 9, 2005 (currently pending). Upon a review of the file history of these applications, on or about April 16, 2009, the following was noticed.

(ii). On August 9, 2004 a final rejection was received in United States Patent Application No. 10/055,817. In response to the final rejection, an Amendment After Final with a petition for a three month extension of time and a Notice of Appeal to the Board of Appeals was filed on February 9, 2005. The Amendment After Final did not place the application in condition for allowance and an Advisory Action dated March 21, 2005 was issued in the case. A copy of the Notice of Appeal is enclosed herewith.

iii). The next entry in the file is a Transmittal Letter dated August 9, 2005 requesting a 3 month Extension of Time in order to file a Continuation Application. The Transmittal Letter contained a general authorization to charge additional fees. A copy of the Transmittal Letter dated August 9, 2005 is enclosed herewith.

iv). A continuation application claiming priority through United States Patent Application No. 10/055,817 was filed via EXPRESS MAIL on August 9, 2005 and was assigned United States Application No. 11/203,573 and afforded the EXPRESS MAIL deposit date as its filing date. A copy of the filing receipt for United States Patent Application No. 11/203,573 is enclosed herewith.

v). The attorney who was in charge of these applications during this time (Soma Simon) is no longer a member of the department.

(vi). On or about April 16, 2009 I was reviewing the file histories of these applications and noticed that in order for United States Patent Application No. 11/203,573 to be co-pending with United States Patent Application No. 10/055,817, the last Transmittal Letter submitted in Application No. 10/055,817 should have requested a 4 month extension of time from the Notice of Appeal (not the 3 month extension that was indicated). A check of the records for our Deposit Account indicated that the Patent and Trademark Office did not provide for an additional month extension by charging an additional fee.

(vii) No notice has been received that would indicate the claim to priority for United States Patent Application No. 11/203,573 has been jeopardized. In fact the United States Patent Application No. 11/203,573 is currently indicated on the United States Patent and Trademark PAIR system as a currently pending application.

(vii). From the facts and circumstances outlined above, all of which I believe to true and accurate, I contend that, United States Patent Application No. 11/203,573 became unintentionally abandoned because an incorrect extension of time was inadvertently petitioned for in the parent application. In order to preserve the claim to priority of United States Patent Application No. 11/203,573 to United States Patent Application No. 10/055,817, applicants petition that United States Patent Application No. 10/055,817, be revived in order to establish co-pendency with Continuation Application No. 11/203,573.

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CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED  
WITH THE UNITED STATES POSTAL SERVICE WITH SUFFICIENT  
POSTAGE AS FIRST-CLASS MAIL IN AN ENVELOPE ADDRESSED TO:  
COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450,  
ON February 9, 2005

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MAY 07 2009

DATE

Attorney Docket No. P32875-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Buxton, et al. February 9, 2005  
Serial No.: 10/055,817 Group Art Unit No.: 1615  
Filed: January 23, 2002 Examiner: Amy E. Pulliam  
For: "NOVEL COMPOSITIONS"

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Va 22313-1450

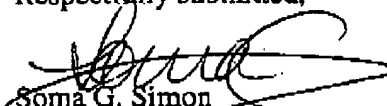
NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE BOARD OF  
APPEALS

Applicant hereby appeals to the Board from the decision of the Primary  
Examiner mailed August 9, 2004, finally rejecting claims 1-51.

Please charge the fee of \$320.00 to Deposit Account No. 19-2570.

Please charge any additional fees under 37 CFR 1.16 or 1.17 which may be  
required by this paper, or credit any overpayment, to Deposit Account No. 19-2570. A  
copy of this Notice is enclosed.

Respectfully submitted,

  
Soma G. Simon  
Attorney for Applicants  
Registration No. 37,444

GLAXOSMITHKLINE  
Corporate Intellectual Property - UW2220  
P.O. Box 1539  
King of Prussia, PA 19406-0939  
Phone (610) 270-5019 Fax (610) 270-5090  
NASOMACASESP32875NCIPNotice of Appeal.doc

EXPRESS MAIL CERTIFICATE  
EXPRESS MAILING MAILING LABEL NUMBER EV71 6183US  
DATE OF DEPOSIT 9 August 2005  
Elizabeth A. Kastler  
9 August 2005  
DATE

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MAY 07 2009

Attorney Docket No. P32875-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Buxton, et al. 9 August 2005  
Serial No.: 10/055,817 Group Art Unit No.: 1615  
Filed: 23 January 2002 Examiner: Gollamudi S. Kishore  
For: "NOVEL COMPOSITIONS"

TRANSMITTAL LETTER

Transmitted herewith is a Continuation in the above-identified application.

EXTENSION OF TIME PETITION

Applicants hereby petition for an extension of time for response from the date of the Examiner's action as needed, the fee being as follows:

( )	one month extension.....	\$ 120
( )	two months extension.....	\$ 450
(x)	three months extension.....	\$1020
( )	four months extension (not beyond statutory time period).....	\$1590
( )	five months extension	\$2160

Charge \$1,020.00 to Deposit Account No. 19-2570. Two copies of this form are enclosed.

Please charge any additional fees under 37 CFR 1.16 or 1.17 which may be required by this paper, or credit any overpayment, to Deposit Account No. 19-2570. Also, should the Patent and Trademark Office determine that the fee calculated in the above extension petition is not deemed sufficient to have this response considered as being timely filed, this constitutes a petition for extension of time for the minimum period to effect timely filing, and the Commissioner is authorized to debit any necessary fee to said deposit account.

Respectfully submitted,



Soma G. Simon  
Attorney for Applicants  
Registration No. 37,444

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**MAY 07 2009**



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/203,573	08/09/2005	1751	2810	P32875-1-C1	2	34	3

CONFIRMATION NO. 8695

GLAXOSMITHKLINE  
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 P.O. Box 1539  
 King of Prussia, PA 19406-0939

## FILING RECEIPT

\*OC000000017620801\*

Date Mailed: 12/09/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Philip Christopher Buxton, Harlow, UNITED KINGDOM;  
 Seona Thomson, Harlow, UNITED KINGDOM;  
 Dirk Marinus Johannes Van-Schie, Harlow, UNITED KINGDOM;

## Assignment For Published Patent Application

SmithKline Beecham p.l.c.  
 Laboratoire GlaxoSmithKline

Power of Attorney: The patent practitioners associated with Customer Number **20462**.

## Domestic Priority data as claimed by applicant

This application is a CON of 10/055,817 01/23/2002  
 which is a CIP of PCT/GB01/03590 08/08/2001

## Foreign Applications

UNITED KINGDOM 0019524.8 08/08/2000  
 UNITED KINGDOM 0118919.0 08/02/2001  
 UNITED KINGDOM 0119022.2 08/03/2001

If Required, Foreign Filing License Granted: 12/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US11/203,573**

Projected Publication Date: 03/16/2006

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MAY 07 2009

PTO/SB/17 (10-08)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**  
**For FY 2009**☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

**Complete if Known**

Application Number	10/055,817
Filing Date	January 23, 2002
First Named Inventor	Buxton, et al.
Examiner Name	G. Kishore
Art Unit	1615
Attorney Docket No.	P32875-1

**METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 19-2570 Deposit Account Name: GlaxoSmithKline

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	330	165	540	270	220	110	
Design	220	110	100	50	140	70	
Plant	220	110	330	165	170	85	
Reissue	330	165	540	270	650	325	
Provisional	220	110	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	52	26
Each independent claim over 3 (including Reissues)	220	110
Multiple dependent claims	390	195
<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20.		
<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3.		

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$270 (\$135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____	_____	_____

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Patton to revive - unintentional abandonment

Fees Paid (\$)

1,620.00

**SUBMITTED BY**

Signature	<i>Wayne J. Dustman</i>	Registration No. (Attorney/Agent)	33,870	Telephone	610-270-5023
Name (Print/Type)	Wayne J. Dustman	Date	May 7, 2009		

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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